

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REGINALD SMITH,

No. C 04-2085 WHA (PR)

Plaintiff,

ORDER OF DISMISSAL

vs.

Warden J. SOLIS; Associate Warden
BOB LOCKWOOD; and Associate
Warden G. E. HARRIS,

Defendants.

This is a civil rights case filed pro se by a state prisoner. Defendants' motion to dismiss the injunctive relief claim as moot and for judgment on the pleadings as to the damages claim was granted. The damages claims were dismissed with leave to amend because plaintiff had alleged no facts whatever regarding the individual defendants except that Harris and Solis know that secondhand smoke can kill. Plaintiff amended.

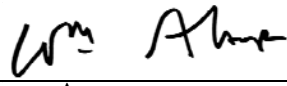
Defendants' motion for an extension of time to file their dispositive motion (document 62 on the docket) is **GRANTED**. The motion to dismiss for failure to state a claim is deemed timely.

In the amended complaint plaintiff does not remedy the deficiencies identified in the Court's previous order. He makes no specific allegations as to the defendants' involvement in the asserted violation of his constitutional rights. Because the amended complaint still does not state a claim, this case is **DISMISSED** with prejudice. Plaintiff's motion for an evidentiary

hearing (document 67) is **DENIED** as moot. The clerk shall close the file.

IT IS SO ORDERED.

Dated: August 27, 2007.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE